

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 12: Enforcement	Effective Date: 11/09/2019
	Section 2.5: Insurance and Worker's Compensation Settlements	Version: 1.0 Revision Date: 11/09/2019

BACKGROUND

The federal government requires each state to have laws and procedures in place to provide for and improve the effectiveness of the Title IV-D Program.¹ Title IV-D agencies are required to enact procedures for intercepting periodic or lump sum payments from insurance settlements and worker's compensation benefits to secure payment towards past due child support.²

A worker's compensation claim is a settlement made to an individual due to an injury which is the result of a work related incident. Insurance claims may include life insurance or automobile accident payments, personal injury settlements, and property damage or liability payouts.

The Centralized Enforcement Unit (CEU) of the Child Support Bureau (CSB) works with insurance providers, the Child Support Lien Network (CSLN), and the Office of Child Support Enforcement (OCSE) to secure payments for past due child support from an obligor's insurance settlement or worker's compensation benefits.

OCSE maintains a debtor's file, which is used to identify delinquent obligors who may have submitted a claim for an insurance settlement or worker's compensation claim. Once an obligor has been added to OCSE's debtor's file, the file then interfaces to CSLN. CSLN is a data matching system that works with OCSE and CSB by cross referencing delinquent obligors against potential claimants. A match between a delinquent obligor and claimant can be made by CSLN or OCSE. There are currently over 1,300 insurers and state worker's compensation agencies that participate in data matching with OCSE and CSLN.

POLICY

When an obligor's arrearage reaches \$500.00 for non-Temporary Aid to Needy Families (TANF) cases, or \$150.00 for TANF cases, they will be added to the debtor's file which is submitted to OCSE by the statewide child support system weekly. The debtor's file includes the obligor's demographic information, as well as the arrearage that is listed on the statewide child support system.

After all OCSE matches have been made to the debtor's file, the file is sent monthly by the statewide child support system to CSLN in order to match claimants and obligors who owe at least \$2,000.00 in arrears. This arrearage threshold is for both non-TANF and TANF case types. The file that is sent to CSLN includes the obligor's demographic information, as well as the arrearage that is listed on the statewide child support system.

¹ 42 U.S.C. § 666(a)

² 42 U.S.C. § 666(c)(1)(G)(i)

CSLN and OCSE use this file to cross reference obligors who have submitted a worker's compensation or insurance claim. CSLN and OCSE send a daily report to CEU of all matches made between claimants and obligors.

Withholding limits under the Federal Consumer Credit Protection Act (CCPA) do not generally apply to insurance claims, settlements, awards, or payments, as those limits are only applicable to withholding of an individual's earnings.³ If the lump sum or recurring payment is for a worker's compensation claim, the income payor is directed to withhold no more than 50% of the obligor's funds, up to the amount of the total arrears.

REFERENCES

- [IC 31-16-15-19](#): Severance pay, accumulated sick pay, vacation pay, accumulated commissions, bonuses, or other lump sum payments; withholding of support arrearages
- [IC 31-16-15-23](#): Liability of income payors
- [15 U.S.C. § 1673](#): Restriction on garnishment
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 303.100](#): Procedures for income withholding.
- [CSB-AT-339](#): Child Support Lien Network

PROCEDURE

1. Claimant Match

When CSLN or OCSE discovers a match of information between a claimant and an obligor that is listed on the debtor's file, that obligor will be added to a daily report that is sent to CEU. This report includes but is not limited to:

- a. Date of injury;
- b. Obligor's demographic information;
- c. Attorney contact information; and
- d. Claim number.

CEU will verify that the obligor's demographic information and arrearages listed on the debtor's report matches what is on the statewide child support system. If the arrearage that is received from the debtor's report does not match what is on the statewide child support system, CEU will send a secure email to the Title IV-D Prosecutor asking for verification of the obligor's demographic information and total arrearage. The Title IV-D Prosecutor will send a secure email to CEU advising of the demographic and arrearage information.

If the arrearage and demographic information that is listed on the statewide child support system matches what is reported by CSLN or OCSE, then an income withholding order (IWO) may be issued by CEU to withhold these benefits, with no further actions needed by the Title IV-D Prosecutor.

2. Issuance of IWO by Title IV-D Prosecutor

³ 15 U.S.C § 1673(b)

If the Title IV-D Prosecutor independently learns of an obligor's personal injury or worker's compensation settlement, the Title IV-D Prosecutor may issue an insurance claim IWO. The Title IV-D Prosecutor is strongly encouraged to create a lien entry on the lien screen of the statewide child support system when an insurance claim IWO is issued. Creating the insurance claim IWO lien on the statewide child support system will ensure that multiple or duplicate insurance claim IWOs are not sent to an insurance company.

3. Match from CSLN; Issuance of IWO

When an obligor files a claim for either a worker's compensation benefit or an insurance settlement and is identified by the debtor's report as having a child support arrearage by CSLN, CSLN will prepare and issue an insurance claim IWO.⁴ In addition to the IWO, CSLN will also prepare and issue a Notice of Withholding (NOW) that is sent to the obligor. The NOW informs the obligor that a portion of his/her settlement award or benefits are being withheld for delinquent child support, the amount of arrearages, and instructions on how to appeal the withholding.

Once CSLN generates the insurance claim IWO in the statewide child support system, CEU will create a new case event advising that an insurance claim IWO has been issued by CSLN to the insurance company. CSLN will track the insurance claim IWOs they issue, as well as monitor payment status and remittance.

4. Match from OCSE; Issuance of IWO

When an obligor files a claim for either a worker's compensation benefit or an insurance settlement and is identified by the debtor's report as having a child support arrearage by OCSE, CEU will prepare and issue the insurance claim IWO. CEU will also prepare and issue the NOW that is sent to the obligor. The NOW informs the obligor that a portion of his/her settlement award or benefits are being withheld for delinquent child support, the amount of arrearages, and instructions on how to appeal the withholding.

A case event will be created when CEU generates the insurance claim IWO through the statewide child support system.

CEU will follow up with the insurance company regarding all insurance claim IWOs that are issued, as well as monitor the status of the claim, the potential settlement amount, and the status of payment remittance.

5. Appealing an Insurance Claim Withholding

The NOW provides clear instructions for the appeal process for award or settlement withholding. The process to appeal an insurance claim IWO is the same process to appeal an IWO that is issued to an employer for child support. The obligor may appeal the withholding if there is a mistake of fact:

- a) There is an error in the amount of delinquent support listed on the NOW, or
- b) The IWO was issued for an incorrect obligor.⁵

⁴ CSB-AT-339

⁵ 45 C.F.R. § 303.100(c)(2)

Upon receiving the NOW, the obligor may appeal by sending a written request for an administrative hearing to CEU within 20 days of the date the NOW was mailed. CEU will initially review the written request for an administrative hearing within one (1) to two (2) business days after its receipt to determine if the request was timely, and whether the basis of the request asserts an issue that is eligible for appeal. If the request is determined to be untimely or presents an issue that is not eligible for administrative hearing, CEU will notify the obligor and state the reason upon which the hearing request is denied. If the obligor is denied a hearing, and administrative remedies have been exhausted, the obligor may seek a judicial determination to prevent the enforcement action. CEU sends eligible hearing requests to the DCS Hearing and Appeals (H & A) to schedule the administrative hearing. CEU will also contact the Title IV-D Prosecutor to obtain copies of court orders, a payment history, and an arrearage calculation to be used as evidence at the administrative hearing.

CEU is responsible for managing an obligor's appeals request against an insurance or worker's compensation withholding. CEU will create an appeal and subsequent disposition in the Appeals Processing Screen in the statewide child support system, which can be found under the case management menu. The appeal code for an insurance withholding entered by CEU will be ARIN.

Once an appeal request is received, CEU will send a secure email to the Title IV-D Prosecutor asking them to verify the obligor's arrearage and demographic information in the statewide child support system. The Title IV-D Prosecutor is strongly encouraged to respond to CEU in a secure email verifying that the arrearage and obligor's demographic information in the statewide child support system was correct at the time the NOW was issued. The Title IV-D Prosecutor should make any needed adjustments to the arrearage or demographic information in the statewide child support system if an error is discovered during their review.

6. Payment Distribution

Indiana allows an obligor's medical and attorney fees to be deducted from his/her total settlement prior to remitting the amount ordered to be withheld for child support arrearage. If an attorney or insurance adjuster is seeking to collect for these types of fees, they will contact CEU, as instructed on the insurance claim IWO. The insurance adjuster or attorney will provide CEU a breakdown of the settlement, including the obligor's total medical and attorney fees. CEU is responsible for reviewing these fees, and determining if they may be deducted prior to child support arrearage being remitted. CEU will also contact the Title IV-D Prosecutor for their assistance in determining the best way to proceed. After an obligor's medical expenses and attorney fees have been deducted from the total benefit or award amount, the insurance company will remit payment for the arrearage to the Indiana State Central Collection Unit (INSCCU).

Before a payment posts to the statewide child support system, the statewide child support system will perform a check to see if there is an open appeal for the case. If an appeal is pending, but the appeal has not been resolved and/or disposed, then the statewide child support system will place a "HOLD" on the payment to prevent any funds from being distributed.

If there is not an open appeal in the statewide child support system, then the payment remitted by the insurance company will be processed according to the normal payment distribution rules.⁶

FORMS AND TOOLS

1. [Appeals Processing: How to Process Appeals in ISETS](#)
2. [ISETS Income Withholding Complete Guide](#)
3. Lump Sum Income Withholding Order (INTA0027)

FREQUENTLY ASKED QUESTIONS

1. Q. What happens if an insurer ignores the insurance claim IWO?
 - A. If an income payor fails to forward the IWO payments as ordered, then the Title IV-D Prosecutor shall send a notice of failure to comply via certified mail to the income payor's address listed in the statewide child support system. The income payor is liable for the amount of income not paid from the income IWO, any interest that accrues on the judgment, and reasonable attorney's fees and court costs.⁷ If the income payor fails to submit payments within 30 days of receipt of the notice, the income payor is liable for the amount they fail to forward.⁸ The income payor who fails to comply with the IWO may be liable for contempt of court.⁹
2. Q. What happens to the settlement if the obligor becomes deceased during the process of filing a claim for benefits?
 - A. If the obligor becomes deceased during the course of a settlement being processed, the Title IV-D Prosecutor must update the obligor's Date of Death (DOD) in the statewide child support system. The Title IV-D Prosecutor is strongly encouraged to contact CEU by secure email to determine the next steps.

RELATED INFORMATION

1. Chapter 12: Enforcement, Section 2.1: Income Withholding Orders; Enforcement.
2. Chapter 12: Enforcement, Section 6: Administrative Hearings.
3. Chapter 14: Payment Processing, Section 3: Distribution and Disbursement of Support Payments Collected.

⁶ Chapter 14: Payment Processing, Section 3: Distribution and Disbursement of Support Payments Collected

⁷ IC 31-16-15-23(b)

⁸ IC 31-16-15-23(a)

⁹ IC 31-16-15-23 (2)(c)